IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 489 of 2005

Between:

Smt. Chand Bee, W/o. Sri Mohd. Ismail,
R/o. H.No.5-30, Fathenagar, Hyderabad.

..... PETITIONER

AND

1 The Collector, R.R.District, at Lakdikapool, Hyderabad.
2 The Sub-Registrar, Sub-Registrar Office, Medchal, R.R.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the respondent No.2 in not accepting the registration of document in respect of plots No.69 & 70 admeasuring 200.00 Sq. Yards covered under registered document No.5511 of 1992 of respondent No.2 Office comprised in Sy.No.128/4 & 128/5, situated at Cherukupally Colony, Qutbullapur Village and Mandal Porper, R.R.District as arbitrary, illegal and ultravires of the Registration Act, and consequently direct the respondents herein to register the document of the petitioner for registration of the land covered by plots No.69 & 70 admeasuring 200.00 Sq. Yards comprised in Sy.No.128/4 & 128/5 situated at Cherukupally Colony, Qutubullapur Village and Mandal Proper, R.R.District and to pass such other order or orders as this Honourable Court deem fit and proper.

Counsel for the Petitioner:MR.A.SATYANARAYANA REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for respondents.

The learned counsel for the petitioner submits that the matter is squarely covered by a judgment of this Court in Writ Petition No.10487 of 2004.

The operative portion of the said judgment reads as under:

> "As long as any person holds title to the property, the respondents do not have any power or jurisdiction to prevent the same from being transferred. It is not as if there is no provision of law to protect the properties of the Government. In case, any individual is found to be in possession of government land, the Andhra Pradesh Land Encroachment Act enables the revenue authorities to evict the persons in unauthorized occupation. Similarly, proceedings can be initiated under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act where a person is found to be in possession of government land without legal entitlement. The Joint Collector has chosen the course of action, which is not permissible in law.
>
> The Registration Act does contain a provision enabling the government to prohibit transfer in respect of any lands. Such prohibition, however, is to be imposed by issuing a notification under Section 22(A) of the Registration Act, 1908. The Government has not chosen to issue a notification under that provision in respect of lands held by the petitioner. Viewed from any angle, this Court does not find any basis for the impugned circular. The Division Bench of this Court in its judgment dated 10-09-2001 in W.A.No.1390 of 2001 took exception to such an exercise.
>
> For the foregoing reasons, the writ petition is allowed and the impugned order is set aside. Any document presented by the petitioner or any persons claiming through it shall be processed and dealt with as per the provisions of the Indian Stamp Act and the Registration Act."

The learned Government Pleader submitted that no notification under Section 22(A)

of the Registration Act, 1908 was issued with regard to the subject lands.

In the circumstances, following the judgment of this Court in W.P.No.10487 of 2004, the present writ petition is allowed and the impugned order is set aside. Any document presented by the petitioner or any persons claiming through it shall be processed and dealt with as per the provisions of the Indian Stamp Act and the Registration Act.

However, this order does not preclude the respondents to issued a notification under Section 22 (A) of the Act. No costs.

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N.V.RAMANA, J

24th JANUARY, 2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Collector, R.R.District, at Lakdikapool, Hyderabad.
2 The Sub-Registrar, Sub-Registrar Office, Medchal, R.R.District.

3.2CCs to Government Pleader for Revenue, High Court buildings, Hyderabad (OUT)

4.2CD copies

*Form-NIC-OGS/WP{**JGK**}*